

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHAEL REITZ,

Petitioner,

9:22-cv-233
(ECC/TWD)

v.

SUPERINTENDENT,
Woodburne Correctional Facility,

Respondent.

Michael Reitz, *Plaintiff, pro se*

Daniel P. Hughes, *Assistant Attorney General, for Defendant*

Hon. Elizabeth C. Coombe, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Michael Reitz, a New York State inmate, commenced this Habeas Corpus action asserting claims under 28 U.S.C. § 2254. Dkt. No. 1. On July 29, 2022, Defendant filed an answer, accompanied by the state court records related to the matter. Dkt. No. 10. Petitioner filed a traverse on September 26, 2022. Dkt. No. 18. This matter was assigned to United States Magistrate Judge Thérèse Wiley Dancks who, on January 10, 2025, issued a Report-Recommendation and Order recommending that Petitioner's petition be denied and dismissed and recommending that no Certificate of Appealability (COA) be issued because (1) the petition is untimely, Dkt. No. 21 at 13-15, and (2) Petitioner cannot avoid the expiration of the statute of limitations because he has not established the threshold requirement for an actual innocence claim that "no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt," *id.* at 18 (quoting *Schlup v. Delo*, 513 U.S. 298, 329 (1995)).

Magistrate Judge Dancks advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the Report-Recommendation, and that the failure to object to the report within fourteen days would preclude appellate review.

No objections to the Report-Recommendation have been filed. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Report-Recommendation is adopted in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation, Dkt. No. 21, is **ADOPTED** in its entirety; and it is further

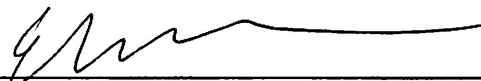
ORDERED that the Petition be **DENIED** and **DISMISSED**; and it is further

ORDERED, that no Certificate of Appealability (“COA”) be issued; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: February 19, 2025
Syracuse, New York



Elizabeth C. Coombe
U.S. District Judge